

House Study Bill 605

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON PAULSEN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to an offer of settlement in a civil case and
2 providing remedies.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6340YC 81
5 rh/je/5

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1 1 Section 1. NEW SECTION. 677A.1 OFFERS OF SETTLEMENT.
1 2 1. At any time more than sixty days after the service of a
1 3 complaint on a party but not less than sixty days before
1 4 trial, a party may serve upon an adverse party a written offer
1 5 to settle a claim for the money, property, or relief specified
1 6 in the offer and if the offer is accepted, to enter a
1 7 stipulation dismissing the claim or to allow judgment to be
1 8 entered by the court accordingly.
1 9 2. The offer shall remain open for forty=five days unless
1 10 withdrawn sooner by a written notice served upon the offeree
1 11 prior to acceptance by the offeree. An offer that is neither
1 12 withdrawn nor accepted within forty=five days shall be deemed
1 13 rejected. The fact that an offer is made but not accepted
1 14 does not preclude the making of a subsequent offer. Evidence
1 15 of an offer is not admissible except in proceedings to enforce
1 16 a settlement or to determine sanctions under this chapter.
1 17 Sec. 2. NEW SECTION. 677A.2 REJECTION OF OFFER.
1 18 If, upon motion by the offeror within thirty days after
1 19 entry of judgment, the court determines that an offer was
1 20 unreasonably rejected resulting in unnecessary delay and
1 21 needless increase in the cost of litigation, the court may
1 22 impose an appropriate sanction upon the offeree pursuant to
1 23 section 677A.3. In making this determination, the court shall
1 24 consider the following relevant circumstances at the time the
1 25 offer is rejected:
1 26 1. Whether, upon specific request by the offeree, the
1 27 offeror had unreasonably refused to furnish information which
1 28 was necessary to evaluate the reasonableness of the offer.
1 29 2. Whether the action presented significant issues
1 30 affecting nonparties.
1 31 Sec. 3. NEW SECTION. 677A.3 UNREASONABLE REJECTION ==
1 32 PLAINTIFF AND DEFENDANT.
1 33 1. An offer shall be presumed to have been unreasonably
1 34 rejected by a defendant if the judgment entered is at least
1 35 twenty=five percent more than the offer that was rejected, and
2 1 an offer shall be presumed to have been unreasonably rejected
2 2 by a plaintiff if the judgment entered is at least twenty=five
2 3 percent less than the offer rejected. For the purposes of
2 4 this section, the amount of the judgment shall be the total
2 5 amount of money damages awarded plus the amount of costs and
2 6 expenses reasonably incurred by the plaintiff or defendant, if
2 7 a counteroffer is made, prior to the making of the offer for
2 8 which recovery is provided under applicable law.
2 9 2. In determining the amount of any sanction imposed for
2 10 unreasonable rejection as provided in subsection 1, the court
2 11 shall award both of the following:
2 12 a. The amount of the parties' costs and expenses,
2 13 including reasonable attorney fees, investigative expenses,
2 14 expert witness fees, and other expenses which relate to
2 15 preparation for trial, incurred after the making of the offer
2 16 of settlement.
2 17 b. The statutory rate of interest that could have been
2 18 earned at the prevailing statutory rate on the amount that a

2 19 party offered to accept, if not otherwise included in the
2 20 judgment.
2 21 3. The amount of any sanction imposed under this section
2 22 against a plaintiff shall be set off against any award to the
2 23 plaintiff, and if such sanction is an amount in excess of the
2 24 award to the plaintiff, judgment shall be entered in favor of
2 25 the defendant and against the plaintiff in the amount of the
2 26 excess.

2 27 4. The court may impose a sanction under this section
2 28 notwithstanding any limitation on recovery of costs or
2 29 expenses provided under contract or any other applicable law.

2 30 Sec. 4. NEW SECTION. 677A.4 SCOPE OF CHAPTER.

2 31 This chapter shall not apply to a class action or
2 32 shareholder derivative suit, or to an action relating to
2 33 dissolution of marriage, alimony, nonsupport, child custody,
2 34 or eminent domain.

2 35 Sec. 5. Chapter 677, Code 2005, is repealed.

3 1 EXPLANATION

3 2 This bill relates to an offer of settlement in a civil
3 3 case.

3 4 The bill repeals Code chapter 677 relating to settlement
3 5 offers and the legal and financial consequences of
3 6 nonacceptance both before and after a lawsuit in a civil
3 7 action is filed and creates new Code chapter 677A dealing with
3 8 settlement offers after a lawsuit has been filed.

3 9 The bill provides that at any time more than 60 days after
3 10 the service of a complaint on a party but not less than 60
3 11 days before trial, a party may serve upon an adverse party a
3 12 written offer to settle a claim for the money, property, or
3 13 relief specified in the offer and if the offer is accepted, to
3 14 enter a stipulation dismissing the claim or to allow judgment
3 15 to be entered by the court accordingly. Such an offer remains
3 16 open for 45 days unless withdrawn sooner by a written notice
3 17 served upon the offeree prior to acceptance by the offeree.
3 18 An offer that is neither withdrawn nor accepted within the 45=
3 19 day period shall be deemed rejected. The fact that an offer
3 20 is made but not accepted does not preclude the making of a
3 21 subsequent offer. Evidence of an offer is not admissible
3 22 except in proceedings to enforce a settlement or to determine
3 23 sanctions under the bill.

3 24 The bill provides that if within 30 days after entry of
3 25 judgment, the court determines that an offer was unreasonably
3 26 rejected resulting in unnecessary delay and needless increase
3 27 in the cost of litigation, the court may impose an appropriate
3 28 sanction upon the offeree, and shall consider whether the
3 29 offeror had unreasonably refused to furnish information which
3 30 was necessary to evaluate the reasonableness of the offer and
3 31 whether the lawsuit presented significant issues affecting
3 32 nonparties. The amount of any sanction imposed shall be set
3 33 off against any award to the offeree, and if such sanction is
3 34 an amount in excess of the award to the offeree, judgment
3 35 shall be entered in favor of the offeror and against the
4 1 offeree in the amount of the excess.

4 2 The bill provides that an offer shall be presumed to have
4 3 been unreasonably rejected by a defendant if the judgment
4 4 entered is at least 25 percent more than the offer that was
4 5 rejected and an offer shall be presumed to have been
4 6 unreasonably rejected by a plaintiff if the judgment entered
4 7 is at least 25 percent less than the offer rejected. For the
4 8 purposes of the bill, the amount of the judgment shall be the
4 9 total amount of money damages awarded plus the amount of costs
4 10 and expenses reasonably incurred by the plaintiff or
4 11 defendant, if a counteroffer is made, prior to the making of
4 12 the offer for which recovery is provided under applicable law.

4 13 The amount of any sanction imposed against a plaintiff
4 14 shall be set off against any award to the plaintiff, and if
4 15 such sanction is an amount in excess of the award to the
4 16 plaintiff, judgment shall be entered in favor of the defendant
4 17 and against the plaintiff in the amount of the excess.

4 18 The bill does not apply to a class action or shareholder
4 19 derivative suit, or to an action relating to dissolution of
4 20 marriage, alimony, nonsupport, child support, or eminent
4 21 domain.

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4 23 rh:rj/je/5